

APPEAL NO. 020103
FILED FEBRUARY 27, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on December 13, 2001. The hearing officer found that the respondent (claimant) was entitled to his fourth quarter of supplemental income benefits (SIBs).

The appellant (carrier) has appealed and argues that the hearing officer's decision is contrary to another hearing officer's decision for the prior two quarters with the same facts, and that entitlement to SIBs is not supported by the record. There is no response from the claimant.

DECISION

We affirm the hearing officer's decision.

The testimony in this case was sparse, with the carrier apparently relying on transcripts in evidence from two previous quarters. The claimant continued to work for his sister in her small video rental business during the entire qualifying period, 30 hours a week. It is fair to say that the business is run somewhat informally with regard to payment of the claimant (in cash) and obligations regarding Social Security or income tax withholding. The work done by the claimant was within the restrictions set out by his treating doctor in a Texas Workers' Compensation Work Status Report (TWCC-73) and, the claimant testified, that were given to him by the treating doctor effective for the entire qualifying period. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(1) (Rule 130.102(d)(1)) requires only a finding that an injured worker has returned to work in a position "relatively equal" to his ability to work; no minimum hours are required and the determination of what ability a claimant has and whether the employment is relatively equal to this ability are fact determinations for the hearing officer.

The hearing officer is the sole judge of the relevance, materiality, weight, and credibility of the evidence presented at the hearing. Section 410.165(a). The decision should not be set aside because different inferences and conclusions may be drawn upon review, even when the record, as here, contains evidence that would lend itself to different inferences. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). Each quarter of SIBs is evaluated on its own facts. In considering all the evidence in the record, we cannot agree that the findings of the hearing officer are so against the great weight and preponderance of the evidence as to be manifestly wrong and unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We therefore affirm the decision and order.

The true corporate name of the insurance carrier is **TWIN CITY FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**JIM ADAMS
450 GEARS ROAD, SUITE 500
HOUSTON, TEXAS 77067.**

Susan M. Kelley
Appeals Judge

CONCUR:

Terri Kay Oliver
Appeals Judge

Philip F. O'Neill
Appeals Judge